IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1075 OF 2005
ALONGWITH
CRIMINAL WRIT PETITION NO. 1076 OF 2005

Ravindra Bipinchandra Shah ...Petitioner

Versus

Sahebrao Nabuji Shinde & Anr ...Respondents

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Mr. Dilip Bodke, Advocate for Petitioner

Mr. Rajesh More, A.P.P. for State in W.P. No. 1075 of 2005.

Mr. S.R. Shinde, A.P.P. for State in W.P. No. 1076 of 2005.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 13TH JULY, 2005

P. C.:-

1. Heard both sides.

2. The petitioner has prayed for quashing of process issued against him in S.C.C. No. 425 of 2003 and 426 of 2003 which are pending in the Court of learned Judicial Magistrate, First Class, Chandwad. In the said case, process has been issued against the petitioner under Section 138 of Negotiable Instruments Act. The petitioner had preferred an application for recalling of process before the learned Magistrate. The learned Magistrate in view

of decision of the Supreme Court in the Case of **Adalat Prasad Vs. Rooplal Jindal and others 2004 (4) Mh.L.J. 274,** rejected the said application. In view of the decision of the Supreme Court in the case of Adalat Prasad (supra), no fault can be found with the order of the learned Magistrate rejecting the application for recalling of process.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the petitioner prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer revision before the concerned Sessions Court. The learned advocate for the petitioner states that the necessary revision would be preferred within a period of three weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of three weeks from today. It is made clear that the revision shall be preferred in respect of the order of the Magistrate issuing

process and not in respect of the order dated 1.2.2005 whereby the application of the petitioner for recalling of process was rejected.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petitions are disposed of.

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